

Establishment of Medico-Legal Death Investigation Systems to Enhance Response on Management of the Dead (MotD)



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Acknowledgement



The Organizers

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According to the World Disaster Report 2020 -- in the past ten years, 83% of all disasters triggered by natural hazards were caused by extreme weather and climate-related events, such as floods, storms and heat waves. The COVID-19 pandemic has shown how vulnerable the world is to a global disaster. Humanity and international cooperation are still lagging behind. Hence, communities and countries still need to adapt to its realities.



Alan Kurdi who died on the way to Europe in course of refuse – Sept. 2015

Aim

- The aim of this paper is to inform the legislators and government policy makers about the background, purpose, structure, function and outcomes of a modern, effective medico legal death investigation system.

The Context

- ❖ The death of a loved one leaves a permanent mark on the survivors.
- ❖ Sadly, because of the lack of information, the families of the deceased suffer additional harm because of the inadequate way that the bodies of the dead are handled.
- ❖ Hence, when people die during wars or disasters, or in course of migration, their bodies must be handled respectfully and with dignity; and the remains of unknown individuals must be searched for, recovered and identified.

The Context contd...

- ❖ Humanitarian effort is to include these tasks for which forensic science offers perfect tools, expertise and techniques.
- ❖ It is to be noted that if a data is missing a person is missing.
- ❖ Therefore, solution must be sought for which bio-metric data and forensic science can be instrumental.
- ❖ Death does not end human suffering, especially when death is sudden, as the result of a disaster.

MotD का लागि नेपालमा के प्रावधान छ ?

बिपद् पश्चातको शव व्यवस्थापन सम्बन्धी मार्गदर्शन,
२०६८ (प्रथम संसोधन, २०७६), नेपाल सरकार ।

MotD का लागि नेपालमा के प्रावधान छ ? contd...

उद्देश्यहरु :

- ❖ क) बैज्ञानिक तथा व्याहारिक प्रक्रियाबाट शव व्यवस्थापनका लागि जिम्मेवार एवं उत्तरदायी संयन्त्रको स्थापना गर्नु ।
- ❖ ख) विपद् पश्चातको शव व्यवस्थापनमा संलग्न सरोकारवाला निकायहरुको कार्य क्षेत्र एवं भूमिका निर्धारण गर्नु ।
- ❖ ग) विपद् पश्चातको शव व्यवस्थापनमा संलग्न सरोकारवाला निकाय तथा पदाधिकारीहरुको कार्य क्षेत्र एवं भूमिकाका आधारमा पूर्वतयारी तथा क्षमता विकासका लागि आवश्यक आधार सृजना गर्नु ।

MotD का लागि नेपालमा के प्रावधान छ ? contd...

उद्देश्यहरु :

- ❖ घ) प्रभावित समुदायको धार्मिक , सांस्कृतिक, जातीय तथा सामाजिक परम्पराका आधारमा शवको उपयुक्त, सम्मानजनक र तत्कालिन तथा दीर्घकालिन व्यवस्थापन गर्नु ।
- ❖ ङ) शव व्यवस्थापनमा संलग्न निकायहरु बीच आश्यक समन्वय, सहकार्य तथा सूचना आदान-प्रदान एवं प्रतिवेदन कार्य लाई प्रभावकारी बनाउनु ।

MotD का लागि नेपालमा के प्रावधान छ ?contd...

रणनीति:

क. शवहरुको निश्चित ढङ्गाबाट खोजी, प्राप्ति, सङ्कलन तथा भण्डारण गर्नु ।

ख. शवको सही पहिचानका लागि सूचनाको विश्लेषण गर्न तथा सञ्चार माध्यमबाट सूचना प्रवाह गर्नका लागि उपयुक्त सूचना /सञ्चार व्यवस्थापन गर्नु ।

ग. प्रभावित परिवार तथा समुदायको धार्मिक, सांस्कृतिक, जातीय तथा मनोबैज्ञानिक आवश्यकताका आधारमा शवको सम्मानजनक रूपमा अन्तिम संस्कार गर्नु ।

MotD का लागि नेपालमा के प्रावधान छ ? contd...

रणनीति:

घ. प्रभावित सदस्यहरूले आफ्नो क्षतिपूर्ति प्राप्त गर्न, सम्पत्ती सम्बन्धी अधिकार प्राप्त गर्न, पैतृक अधिकार प्राप्त गर्न तथा पुनर्विवाह आदिका लागि मृत्यु एवं शव सम्बन्धी सही र चित्त बुझ्दो जानकारी तथ्यगत आधारमा प्राप्त गर्नु ।

ङ. संकटकालीन परिस्थितिमा राज्यको स्रोत-साधन एवं परिस्थिति अनुसार शव व्यवस्थापनका लागि उपयुक्त प्रक्रिया वा विधि अलम्बन गर्नु ।

जिल्ला प्रहरी प्रमुखको संयोजकत्वमा विधि बिज्ञान चिकित्सक, जिसस, शप्रव, रेडक्रस, जिप्रशाका, स्थानिय तह प्रतिनिध सम्मिलित जिल्ला शव व्यवस्थापन समिति रहने प्रावधान छ ।

Ground Reality

- During the disaster response, dead body management is a key element.
- How dead bodies are dealt with can have an intense impact and long-lasting effect on the mental health of survivors and communities. Their proper management is a core component of disaster response.
- At the disaster site, **dealing with the dead** is the responsibility of the first responder which later is the accountability of the disaster manager or incident commander.

What ought not to do ? के गर्न हुन्न ?

- Rapid cremations, the use of bulldozers to gather dead bodies, or the lack of a place in which to bury a corpse can cause a lot of stress.
- ICRC advises that the cremation of unidentified bodies should be avoided.
- Burials are preferred in emergencies unless there are religious or cultural reasons.
- Large number of corpses requires large amounts of fuel resulting smoke pollution, causing logistical problems for recovery teams.
- Hasty cremation can destroy evidence needed for future identification.

What Needs to be Done? के गर्ने ?

- The disaster manager or incident commander must also manage public information and messages, and should collaborate with key agencies—such as the police, army, or civil defense organization etc.
- It is imperative that the dead and their bereaved family members, relatives, and friends must be respected at all times.
- As far as possible, religious and cultural requirements should be observed, and normal procedures for mourning and burial should be allowed.
- Appropriate planning for the disposal of dead bodies and adoption of best practices in handling dead bodies is also highly desirable.

Mass burial during Typhoon Haiyan in the Philippines in 2013



Rights of the Dead

- Human beings have the right not to lose their identities after death. For this a reliable death investigation system is essential to a properly functioning justice system, which in turn underpins a safe and fair society.
- Undignified or improper burials or mourning ceremonies - this denies people to accept with their loss.
- **Therefore**, priority should be given to people to recreate social networks to avoid isolation, and to give people an appropriate opportunity to mourn.
- Religious and community leaders can play a vital role in helping relatives to better understand and accept the recovery and management of dead bodies.

Main Issues

- The structural and non-structural capability for the MotD greatly varies country by country
- Structural measures are any physical construction to reduce or avoid possible impacts of hazards, or the application of engineering techniques or technology to achieve hazard resistance and resilience in structures or systems.
- Non-structural measures are measures not involving physical construction which use knowledge, practice or agreement to reduce disaster risks and impacts, in particular through policies and laws, public awareness raising, training and education.

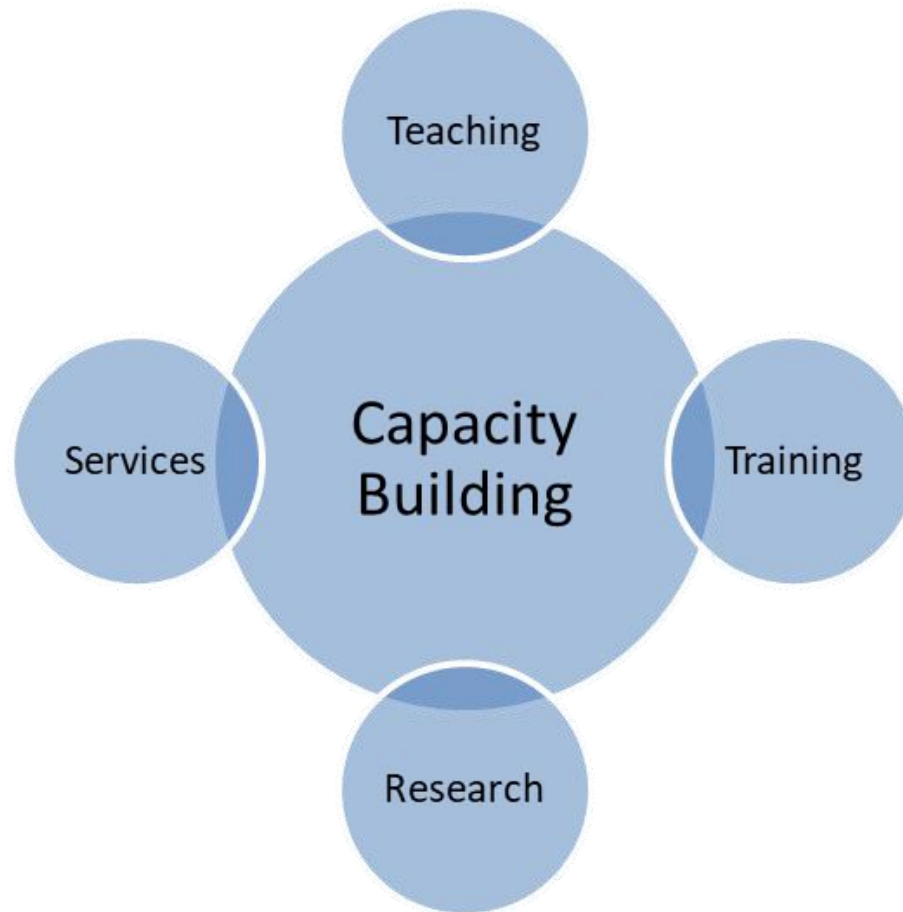
The Problems

- Lack of coordination among MotD related institutions, inadequate data and information, insufficient infrastructure, lack of human resources, lack of equipment, lack of funds, and lack of governmental interest in MotD are some of the major problems.
- Organizational culture, acceptance of new working modality, new set of goals, new process, new values, new attitudes, new communication practices and new assumptions are other challenges.

Responsibilities of Person or Organization in Authority

- Protect the dead body, & Search missing persons
- The body recovery task must be done rapidly but appropriately to correctly identify the dead and reduce the mental tension on the survivors
- Take care of bereaved family members, relatives and friends
- Create an environment where the dead bodies are treated in dignified manner
- Ensure and respect the human right of the dead,
- Build an infrastructure that is well-equipped with well developed forensic medico-legal death investigation, response, and MotD system.

For the Efficient MotD



Death Investigation System

Specialists

Who: Forensic Pathologist/doctors, medical examiner, coroner, police/prosecutor/judge

Who: Forensic Pathologist/doctors, medical examiner, coroner, police/prosecutor/judge

Who: Forensic specialists

SoPs

What: gathering of the information: Information from family, witnesses, doctors, medical records

What: defining forensic relevance and specification for post mortem examination

What: Toxicology, Histology, Microbiology, Ballistic, Molecular biology, Clinical Forensic Medicine, Neuropathology, biochemistry, genetics, tissue culture, prosthetic or device testing and **anthropology, odontology, entomology, others**

What: Report must meet scientific rigor and the needs of Police, Courts, Coroner, Family, Medical professionals, hospitals re: previous diagnosis and medical treatment, statisticians, public health officials, registrar of Births and Deaths. Municipal services to burial the bodies

Recommendations

- ❑ Create an effective and efficient medico-legal death investigation, response, and management of the dead (MotD) system.
- ❑ Justice on human dignity even after the death through the pursuit of environmental conservation, human development, and sustainable is required.
- ❑ Make competent and accountable all the concerned stakeholders for their meaningful and productive contribution for the establishment of the medico-legal death investigation, response, and management of the dead (MotD) system.

Recommendations contd...

- ❑ Avail relevant information and necessary tools to the institutions responsible for the MotD to develop their own policy, which includes the key elements to properly respond in emergencies.
- ❑ Identify main elements and obtain ways and means for developing policies and strategies on MotD.
- ❑ Provide guidelines & priorities to formulate a strategy & a plan of action for MotD during emergencies.
- ❑ Identify the constraints, challenges, and the opportunities in the MotD during emergencies.
- ❑ Promote cooperation among institutions at all levels with the working groups and representatives involved in Disaster Management.



Concluding Remarks

The medico-legal death investigation system for the MotD in the Asia Pacific region and beyond is not yet at optimum level. This situation has led to disorganization, creating many issues such as redundancy, inefficiency & discrepancies in actions. It has hindered the importance of proactive risk management practices, maintains a siloed view of the organization and key operations, and limits the upside for performance improvement initiatives. Despite being the case for any given situation, the absence of policy is particularly challenging in relation to the MotD in conflict and disasters. If these issues are not addressed through a proactive policy, it will be difficult to manage disasters. Hence, effective and proactive legal tools are highly desirable to ensure a dignified and proper MotD.



Final Note

Please Remember --

**“Good policy with bad implementation
is bad policy”**

Reference Materials

1. **Geneva Convention 1949**
2. **ICRC Strategy 2019-2022**
3. **ICRC Assistance Policy 2004**
4. **ICRC Prevention Policy 2010**
5. **ICRC Protection Policy 2008**
6. **IFRC Constitution 2017**
7. **Minnesota Protocol 2016**
8. **Seville Agreement 1997**
9. **International humanitarian law (IHL)**
१०. बिपद् पश्चातको शव व्यवस्थापन सम्बन्धी मार्गदर्शन, २०६८ (प्रथम संसोधन, २०७६), नेपाल सरकार ।



THE END OF PRESENTATION

Thank You Very Much For Your Kind Attention!